

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Black	Team: Team # 3	CCRB Case #: 200615181	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/17/2006 11:00 AM, Friday, 04/06/2007	Location of Incident: 72nd Street and 18th Avenue	Precinct: 62	18 Mo. SOL 4/17/2008	EO SOL 4/17/2008	
Date/Time CV Reported Mon, 11/13/2006 12:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/13/2006 12:00 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Frank Kolanovic	14340	924035	062 PCT
2. SGT Christopher Zaleski	01803	923399	062 PCT
3. POM Michael Ohalloran	14318	918088	062 DET
4. An officer			
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gilberto Alonso	27063	929616	062 DET

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: On October 17, 2006, officers used physical force against § 87(2)(b)	
B. An officer	Force: On October 17, 2006, an officer used physical force against § 87(2)(b)	
C. POM Frank Kolanovic	Discourtesy: On October 17, 2006, PO Frank Kolanovic spoke obscenely to § 87(2)(b)	
D. SGT Christopher Zaleski	Discourtesy: On October 17, 2006 and April 6, 2007, Sgt. Christopher Zaleski spoke obscenely to § 87(2)(b)	
E. POM Michael Ohalloran	Discourtesy: On April 6, 2007, PO Michael Ohalloran spoke obscenely to § 87(2)(b)	
F. POM Michael Ohalloran	Abuse: On April 6, 2007, PO Michael Ohalloran threatened § 87(2)(b) with the use of force.	

Synopsis

On November 13, 2006, § 87(2)(b) filed the following complaint by mail with the Civilian Complaint Review Board (CCRB) regarding an incident that occurred on October 17, 2006. On April 9, 2007, § 87(2)(b) contacted the CCRB by phone and added further allegations to his complaint.

On October 16, 2008, Sgt. Christopher Zaleski, PO Frank Kolanovic, and PO Michael O'Halloran approached § 87(2)(b) to place him under arrest for having heroin in plain view. As the officers approached, § 87(2)(b) had his hands in his pocket. Sgt. Zaleski told § 87(2)(b) to remove his hands from his pockets. As § 87(2)(b) removed his hands from his pocket several packets of heroin fell to the ground. § 87(2)(b) then attempted to swallow some of the heroin. The officers then allegedly punched § 87(2)(b) and used physical force to place him under arrest (Allegation A). PO Kolanovic placed § 87(2)(b) in handcuffs and brought him to his feet. An officer then allegedly grabbed § 87(2)(b) by the back of his legs, near his ankles, and pulled his feet out from under him, causing him to fall forward and strike his head against the ground (Allegation B). Officers then allegedly kicked § 87(2)(b) in the ribs as he was on the ground (within Allegation A). § 87(2)(b) told the officers to be careful because he has AIDS and he did not want to bleed. PO Kolanovic allegedly stated, "I don't give a fuck, you AIDS scumbag" (Allegation C). Sgt. Zaleski then allegedly called § 87(2)(b) a "piece of shit" (Allegation D).

On April 6, 2007, Sgt. Zaleski, PO O'Halloran, and PO Alonso approached § 87(2)(b) and observed him throw a crack pipe on the ground. As the officers approached, Sgt. Zaleski allegedly stated, "Hey scumbag. Come here" (within Allegation D). Sgt. Zaleski then allegedly stated, "You like to make complaints? Ain't shit gonna happen" with complaints filed with the CCRB (within Allegation D). PO O'Halloran proceeded to search § 87(2)(b) and allegedly stated, "Don't look at me scumbag" (Allegation E). PO O'Halloran then allegedly made a punching motion toward § 87(2)(b) and stated "give me a reason," threatening to use force against § 87(2)(b) (Allegation F).

§ 87(2)(g)

[REDACTED]

This case was initially assigned to Investigator Gary Roosa. Upon his resignation, it was reassigned to Investigator Michele Delia on June 26, 2007. Upon her resignation, it was reassigned to Inv. Eric Black on March 13, 2008.

Summary of Complaint

§ 87(2)(b)

On November 13, 2006, § 87(2)(b) filed the following complaint with the CCRB by mail (encl B 9-13). § 87(2)(b) was incarcerated at Riker's Island until § 87(2)(b), at which time he was transferred to § 87(2)(b).

§ 87(2)(b)

On February 10, 2007, a written notarized statement from § 87(2)(b) was received by mail (encl. B 14-17). On April 4, 2007, § 87(2)(b) contacted the CCRB by phone and stated that he was released from § 87(2)(b) and arranged an interview at the CCRB on April 18, 2007 to provide a more thorough statement; however, on § 87(2)(b), § 87(2)(b) contacted the CCRB and stated that he had been arrested on April 6, 2007 and was incarcerated on Riker's Island. On April 9, 2007, § 87(2)(b) contacted the CCRB by phone and filed a complaint regarding the circumstances of his arrest on April 6, 2007 (encl. B 18). On July 27, 2007, § 87(2)(b) provided a statement to the Internal Affairs Bureau (IAB) for IAB log # § 87(2)(b) (encl. B 19). On November 9, 2007, § 87(2)(b) was interviewed at Riker's Island and provided a statement regarding the incident that occurred on April 9, 2007 (encl. B 20-23). § 87(2)(b) was interviewed a second time at Riker's Island on April 29, 2008 to obtain a detailed statement regarding the October 17, 2006 incident (encl. B 24-27). § 87(2)(g)

CCRB Statement Regarding October 17, 2006

On October 17, 2006 at approximately 11:45 AM, § 87(2)(b) was waiting for a bus in the entrance of a building in the vicinity of 18th Avenue and 70th Street in Brooklyn. § 87(2)(b) held a cigarette in one hand and reached into his pocket with the other hand, pulled out a packet of heroin that he purchased earlier that morning, looked at it, and placed it back into his pocket. § 87(2)(b) then noticed approximately three police officers in plainclothes with badges around their necks walking towards him. The officers approached § 87(2)(b) and surrounded him in the doorway of the building where he was standing.

An officer asked, "How are you doing sir? What are you doing?" § 87(2)(b) told the police officers that he was waiting for the bus. An officer, who § 87(2)(b) stated was the officer that processed his arrest and was identified by the investigation as PO Kolanovic, asked for his identification. After § 87(2)(b) gave PO Kolanovic his identification, PO Kolanovic put his hand into § 87(2)(b)'s pocket and removed heroin.

An officer, who § 87(2)(b) referred to as "the sergeant" and who has been identified by the investigation as Sgt. Zaleski, took approximately \$200 dollars from § 87(2)(b)'s pocket and asked, "Where did you get all of this money from? Are you selling drugs?" § 87(2)(b) explained that he had just taken the money out of an ATM to pay bills, but when asked, he could not indicate where he was paying bills or what bills he was paying. § 87(2)(b) had another bag of heroin in his other pocket so he took it out and swallowed it, because he "had a problem."

Sgt. Zaleski stated, "I knew he was going to do that." § 87(2)(b) turned around, crouched down in a fetal position, and the officers began to punch him. § 87(2)(b) was punched in the upper body and ribs by the officers, but he could not distinguish which officers were hitting him. The officers then turned him over onto the ground and placed him in handcuffs. Later in his interview, § 87(2)(b) recanted, stating that the officer had allowed him to stand up under his own power, told him to place his hands behind his back, and then placed him in handcuffs. § 87(2)(b) did not know who handcuffed him. In the notarized statement that § 87(2)(b) provided, he states that the officers "threw him to the ground," but does not mention that the officers punched him.

The police officers then stood § 87(2)(b) up and made him face the doorway of the entrance where he was standing. An officer then grabbed the back of the bottom of § 87(2)(b)'s pants, near his shoes at his ankles, and pulled his feet backwards and out from under him. § 87(2)(b) fell forward and hit his head against the pavement. § 87(2)(b) indicated that his arrest photograph will show that he sustained a bruise on his head from this (encl. B28). § 87(2)(b) could not stop his fall because he was in handcuffs.

§ 87(2)(b) told the police officers “Take it easy. I’m HIV. I don’t want to bleed.” As § 87(2)(b) was on the ground the police officers then began to kick him and PO Kolanovic stated, “I don’t give a fuck you AIDS scumbag.” PO Kolanovic also stated, “I should kick you in the stomach and make you kick it out,” referring to the bag of heroin that he swallowed. Civilians began to crowd around and began to call him “an AIDS scumbag.” Sgt. Zaleski and civilian members of the crowd were also calling § 87(2)(b) a “piece of shit.” All of the police officers were involved in kicking § 87(2)(b). § 87(2)(b) knew all of the officers kicked him “because he could feel it.” § 87(2)(b) was face down on the ground and he felt simultaneous kicks on the right side of his body and the left side of his body in the ribs. When asked if § 87(2)(b) was able to see which officers specifically kicked him, he repeatedly stated, “They all were hitting me. Why do you keep asking me that? They beat me up. Jesus Christ. The whole crew beat me up.” The officers then called a patrol car and § 87(2)(b) was transported to the 62nd Precinct stationhouse.

CCRB Statement Regarding April 6, 2007

On April 6, 2007 at approximately 4:00 PM, § 87(2)(b) entered a karate center to find out the price of karate lessons. § 87(2)(b) exited the karate center and walked to the corner of 71st or 72nd Street and 18th Avenue. He then observed an unmarked patrol car stop at the corner. Three police officers, Sgt. Zaleski, PO O’Halloran, and PO Alonso, all in plainclothes, exited the car. § 87(2)(b) identified Sgt. Zaleski and PO O’Halloran by name, having recognized them from his arrest on October 17, 2006. PO Alonso was identified through the investigation.

The officers approached § 87(2)(b) and Sgt. Zaleski stated, “Hey scumbag, come here.” Sgt. Zaleski grabbed § 87(2)(b)’s right arm, and PO O’Halloran held him on his left arm. Sgt. Zaleski asked, “You like to make complaints?” referring to the complaint that § 87(2)(b) filed against them with the CCRB regarding his arrest on October 17, 2006. Sgt. Zaleski stated “ain’t shit gonna happen” with complaints filed with the CCRB. § 87(2)(b) pleaded with the officers to let him go, stating that he would “drop his complaint.”

PO O’Halloran and Sgt. Zaleski searched § 87(2)(b)’s pockets. § 87(2)(b) later admitted that he could not remember if Sgt. Zaleski looked in his pockets, but stated that he was sure that PO O’Halloran repeatedly searched his right front jacket pocket. PO O’Halloran then stated, “Don’t look at me scumbag.” PO O’Halloran made a punching motion with his hand towards § 87(2)(b) and stated, “Give me a reason.”

§ 87(2)(b) then observed Sgt. Zaleski look at PO O’Halloran and nod his head. § 87(2)(b) turned and looked at PO O’Halloran, who then stated, “What is this?” and presented a black object in his left hand in a tissue while still holding onto § 87(2)(b) with his right hand. § 87(2)(b) alleged that the officers “planted” the object on him, which was a crack pipe, stating that the crack pipe was “not his shot” and that he does not do crack. This allegation was referred to the Internal Affairs Bureau on November 17, 2007. When interviewed by IAB, § 87(2)(b) stated that he did not have any drug paraphernalia on him and an officer planted the crack pipe on him in retaliation for filing a CCRB complaint. § 87(2)(b) stated that an officer went into his pocket numerous times asking “where is the stuff?” before producing a pipe. § 87(2)(b) does not use crack, and he stated that if he were to have a relapse it would be with heroin.

Results of Investigation

Identification of Officers Interviewed

A search of BADS indicates that § 87(2)(b) was arrested on October 17, 2006 by PO Kolanovic. PO Kolanovic was interviewed and he stated that he was working with Sgt. Zaleski, PO O’Halloran, and possibly

PO Alonso on October 17, 2006. Sgt. Zaleski was interviewed and he stated that he was working only with PO O'Halloran and PO Kolanovic. PO O'Halloran confirmed during his CCRB interview that only he, Sgt. Zaleski, and PO Kolanovic were present on October 17, 2006. A call was placed to PO Alonso on October 23, 2007 and he stated that he was not present during the arrest on October 17, 2006 because he was doing paperwork in the stationhouse on that day. Additionally, § 87(2)(b) noted in his written statement that there were only three police officers present on October 17, 2006. § 87(2)(g)

A BADS search indicated that § 87(2)(b) was arrested on April 6, 2007 by PO O'Halloran. The 62nd Precinct Tour 2 Roll Call on April 6, 2007 indicates that Sgt. Zaleski and PO Alonso were working with PO O'Halloran. § 87(2)(g)

Statements Regarding the October 17, 2006 Incident PO Frank Kolanovic

PO Frank Kolanovic, a § 87(2)(b)-old, 5'10", 215 lbs., white male police officer with brown hair and brown eyes, filed a complaint and arrest report on October 17, 2007 stating that he observed § 87(2)(b) "Pull a quantity of controlled substance (heroin) out of his left pocket, look at it, and put it back in. The arresting officer approached the defendant knowing who he was and defendant gave him a false name and put an envelope of controlled substance into his mouth and attempted to run from the police. The defendant swallowed the envelope and would not give his hands to the police" (encl. C 1-4) PO Kolanovic provided statements at the CCRB on September 27, 2007 and on May 12, 2008 (encl. C 6-9). PO Kolanovic was not present for the incident on April 6, 2007. § 87(2)(g)

On October 17, 2006, PO Kolanovic worked from 9:00 AM to 5:35 PM in plainclothes and was assigned to Anti-Crime. PO Kolanovic was the passenger in unmarked patrol vehicle #713. PO Kolanovic was working with Sgt. Zaleski, PO O'Halloran, and possibly PO Alonso. PO Kolanovic's memobook stated that at 11:59 AM § 87(2)(b) was placed under arrest at 18th Avenue and 72nd Street (encl. C 5).

On October 17, 2006 at approximately 11:59 AM, PO Kolanovic was heading northbound on 18th Avenue in Brooklyn when he observed § 87(2)(b) standing in a doorway. § 87(2)(b) put his left hand into his left front pocket and pulled out numerous decks of heroin. As soon as PO Kolanovic observed the heroin it was decided that § 87(2)(b) was going to be placed under arrest. The investigation determined that a deck is a bag of heroin containing one to fifteen grams of heroin.

The officers stopped the patrol car and approached § 87(2)(b). PO Kolanovic asked § 87(2)(b) for his name and identification. § 87(2)(b) said his name was "Paul Gilotta" and that he did not have any identification. § 87(2)(b) also stated to PO Kolanovic, "I'm HIV positive." § 87(2)(b) then took a few steps to run away, but PO Kolanovic grabbed § 87(2)(b) on his chest and shoulder. § 87(2)(b) then grabbed the decks of heroin out of his left pocket and attempted to swallow them as he went to the ground. § 87(2)(b) was on the ground in the fetal position and swallowed at least one of the heroin packets. PO Kolanovic denied punching § 87(2)(b) as § 87(2)(b) was taken to the ground. § 87(2)(b) was only on the ground once.

§ 87(2)(b) refused to give the officers his hands for approximately one minute. The officers tried to roll § 87(2)(b) over onto his stomach, but he was bracing his body from them by turning himself around with his legs and refusing to put his hands behind his back. The officers had to pull on his arms to get them behind his back and then PO Kolanovic handcuffed him. PO Kolanovic denied kicking § 87(2)(b) in the ribs. § 87(2)(b) was searched after he was handcuffed and then PO Kolanovic retrieved the rest of the heroin decks from the ground.

PO Kolanovic denied grabbing § 87(2)(b) by the back of his legs near his ankles, while he was in handcuffs and standing, and pulling his legs out from under him causing him to fall to the ground. PO Kolanovic did not witness any other police officers do this.

PO Kolanovic denied stating, “I don’t give a fuck, you AIDS scumbag.” PO Kolanovic denied calling § 87(2)(b) a “scumbag.” PO Kolanovic denied calling § 87(2)(b) a “piece of shit.” PO Kolanovic denied telling § 87(2)(b) “I should kick you in the stomach and make you kick it out,” referring to the heroin that he ingested. PO Kolanovic did not witness any other police officer make these statements to § 87(2)(b).

Sgt. Christopher Zaleski

Sgt. Christopher Zaleski, a § 87(2)(b)-old, 5’10”, 185 lbs., white male police officer with brown hair and blue eyes, provided statements at the CCRB on September 18, 2007 and May 12, 2008 (Enc. 14-19). § 87(2)(g)

On October 17, 2006, Sgt. Zaleski worked from 9:03 AM to 6:00 PM in plainclothes, assigned as the Burglary Apprehension Team Supervisor, with PO Kolanovic and PO O’Halloran in an unmarked patrol car. PO Kolanovic was driving the RMP. Sgt. Zaleski did not have any memobook entries regarding the incident (encl. C 10-13).

On October 17, 2006 at approximately 11:59 AM, Sgt. Zaleski, PO O’Halloran, and PO Kolanovic were driving on 18th Avenue near 72nd Street in Brooklyn when they observed § 87(2)(b) with heroin packets in his hands. The officers exited the vehicle and approached § 87(2)(b). § 87(2)(b) had his hands in his front pockets so Sgt. Zaleski ordered § 87(2)(b) to remove his hands from his pockets for safety precautions. As § 87(2)(b) removed his hands from his pockets, a couple of heroin packets dropped onto the sidewalk. § 87(2)(b) then placed his hand to his mouth and attempted to swallow drugs that were in his hand.

Sgt. Zaleski and PO Kolanovic grabbed § 87(2)(b)’s arms to restrain him and placed him under arrest. § 87(2)(b) resisted by flailing his arms and moving his body away from the officers. Sgt. Zaleski and PO Kolanovic “had to bring him down to the ground slowly” face first in order to get his arms behind his back. Sgt. Zaleski denied punching § 87(2)(b) in the ribs as he was attempting to restrain § 87(2)(b) from swallowing the heroin. PO Kolanovic and Sgt. Zaleski handcuffed § 87(2)(b) and lifted him onto his feet. § 87(2)(b) stopped resisting after he was handcuffed. PO Kolanovic frisked and searched § 87(2)(b) and heroin decks were found in his pockets. Sgt. Zaleski denied grabbing § 87(2)(b)’s legs near his ankles and pulling his feet out from under him, causing him to fall forward. Sgt. Zaleski did not witness any other officer do this, and stated that § 87(2)(b) was only on the ground once during the incident. Sgt. Zaleski denied kicking § 87(2)(b) in the ribs. Sgt. Zaleski did not witness any physical injuries on § 87(2)(b).

Sgt. Zaleski did not know that § 87(2)(b) had AIDS. Sgt. Zaleski did not witness PO Kolanovic state, “I don’t give a fuck, you AIDS scumbag.” Sgt. Zaleski denied calling § 87(2)(b) a “scumbag” and a “piece of shit.” Sgt. Zaleski did not witness any other police officer make these statements. Sgt. Zaleski did not witness PO Kolanovic tell § 87(2)(b) “I should kick you in the stomach and make you kick it out,” referring to the heroin that he ingested.

PO Michael O’Halloran

PO Michael O’Halloran, a § 87(2)(b)-old, 5’10”, 200 lbs., white male police officer with brown hair and brown eyes provided statements at the CCRB on September 18, 2007 and April 15, 2008 (Enc. C 26-30). § 87(2)(g)

On October 17, 2006, PO O'Halloran worked from 9:00 AM to 5:35 PM in plainclothes, assigned to the 62nd Precinct Burglary Apprehension Team with Sgt. Zaleski and PO Kolanovic in an unmarked patrol vehicle. He had no memobook entries regarding this incident (Enc. C 23-25).

On October 17, 2006 at approximately 11:50 AM, PO O'Halloran, Sgt., Zaleski, and PO Kolanovic were driving on 18th Avenue and 72nd Avenue in Brooklyn and PO Kolanovic observed an individual standing in the doorway with decks of heroin in his hand. As the officers approached § 87(2)(b) he pulled his left hand out of his left front pocket and a couple decks of heroin fell onto the sidewalk. § 87(2)(b) attempted to swallow the heroin, so Sgt. Zaleski and PO Kolanovic grabbed § 87(2)(b) by both of his arms.

Sgt. Zaleski and PO Kolanovic pulled § 87(2)(b) to the ground and onto his stomach. PO O'Halloran held onto § 87(2)(b)'s feet. § 87(2)(b) refused to place his hands behind his back. PO Kolanovic handcuffed § 87(2)(b) and placed him into the patrol car. PO O'Halloran denied that the officers kicked § 87(2)(b) in the ribs.

PO O'Halloran denied that any officers used physical force against § 87(2)(b) other than pulling § 87(2)(b) onto the ground. PO O'Halloran denied that Sgt Zaleski called § 87(2)(b) "a piece of shit," or that any police officer made any discourteous statements to § 87(2)(b).

Statements Regarding the April 6, 2007 Incident PO Michael O'Halloran

PO O'Halloran filed an arrest report on April 6, 2007 stating that he observed § 87(2)(b) who he knows to be a burglary parolee. As PO O'Halloran approached § 87(2)(b) § 87(2)(b) threw a crack pipe to the ground (encl. C 20-22).

On April 6, 2007, PO O'Halloran worked from 9:00 AM to 5:35 PM in plainclothes with Sgt. Zaleski and PO Alonso in an unmarked patrol vehicle. PO O'Halloran's memobook states that he observed a burglary parolee on the corner of 70th Avenue and 18th Street. As PO O'Halloran approached § 87(2)(b) he threw a crack pipe to the ground. One person was arrested at 5:05 PM (encl. C 23-25).

On April 6, 2007 at approximately 5:00 PM, PO O'Halloran, Sgt. Zaleski, and PO Alonso were in an unmarked patrol on 18th Avenue in Brooklyn. The officers observed § 87(2)(b) walking on the sidewalk on 18th Avenue near the intersection of 70th Street. The officers decided to pull over and see what § 87(2)(b) was doing since he had just gotten out of jail. When § 87(2)(b) saw the unmarked patrol car, § 87(2)(b) reached into his right back pocket and threw a crack pipe onto the sidewalk.

The officers exited the car and approached § 87(2)(b). PO O'Halloran retrieved the pipe from the ground, and § 87(2)(b) denied that it was his. PO O'Halloran told § 87(2)(b) he was under arrest and handcuffed him. PO O'Halloran denied that any officers used profanity or discourteous language towards § 87(2)(b).

PO O'Halloran denied telling § 87(2)(b) "Don't look at me scumbag." PO O'Halloran denied making any swinging or punching motion with his arms as if he was going to strike § 87(2)(b). PO O'Halloran denied stating to § 87(2)(b) "Give me a reason" as if he was threatening to use force against him. PO O'Halloran did not hear Sgt. Zaleski call § 87(2)(b) a "scumbag." PO O'Halloran did not hear Sgt. Zaleski state "ain't shit gonna happen" with a CCRB complaint, but admitted that he discovered that § 87(2)(b) had a CCRB complaint at the stationhouse because he found papers from the CCRB and a phone number for an IAB sergeant in § 87(2)(b)'s pocket.

Sgt. Christopher Zaleski

On April 6, 2007, Sgt. Zaleski worked from 9:00 AM to 6:00 PM in plainclothes and was assigned to Anti-Crime with PO Alonso and PO O'Halloran in an unmarked patrol car. Sgt. Zaleski did not have any memobook entries regarding the incident (encl. C 10-13).

On April 6, 2007 at approximately 5:00 PM, Sgt. Zaleski, PO O'Halloran, and PO Alonso were on 18th Avenue near 70th Street in an unmarked patrol car and observed § 87(2)(b) walking down 18th Avenue. § 87(2)(b) appeared to have recognized the car and PO O'Halloran observed § 87(2)(b) drop paraphernalia onto the sidewalk as the officers drove by him.

The officers immediately pulled over the vehicle parallel to § 87(2)(b) exited the car, and approached him. Sgt. Zaleski witnessed PO O'Halloran pick up the paraphernalia from the sidewalk. § 87(2)(b) did not say anything except, "Oh man," repeatedly, and he was otherwise calm. PO O'Halloran placed § 87(2)(b) under arrest, frisked him, and searched him. No other contraband was found on § 87(2)(b).

Sgt. Zaleski denied that any officers cursed or spoke discourteously towards § 87(2)(b) or threatened him at any point. § 87(2)(b) was placed into their vehicle and transported back to the stationhouse where PO O'Halloran processed him.

PO Gilberto Alonso

PO Gilbert Alonso, a § 87(2)(b)-old, 5'9", 210 lbs., Hispanic male police officer with brown hair and brown eyes provided a statement at the CCRB on January 9, 2008 (encl. C 34-36). PO Alonso's statement is consistent with Sgt. Zaleski's and PO O'Halloran's statement. PO Alonso was not present for the incident on October 17, 2006.

On April 6, 2007, PO Alonso worked from 4:30 PM to 6:05 PM. PO Alonso was in plainclothes and assigned to an unmarked RMP with Sgt. Zaleski and PO O'Halloran. PO Alonso was assigned to the 62nd Precinct Burglary Apprehension Team. PO Alonso had no memobook entries regarding the incident (encl. C 31-33).

On April 6, 2007 at approximately 4:30 PM, PO O'Halloran and Sgt. Zaleski told PO Alonso that they just observed § 87(2)(b) who was identified by the investigation, enter a karate school on 18th Avenue and 72nd Street to avoid their vehicle. As § 87(2)(b) exited the school, PO O'Halloran approached § 87(2)(b) and told him he was under arrest. PO O'Halloran then went behind § 87(2)(b) bent down, and recovered a crack pipe. PO O'Halloran then searched § 87(2)(b) and handcuffed him.

PO Alonso denied that PO O'Halloran made a threat to use force against § 87(2)(b) by stating "give me a reason" and making a motion with his arm as if he was going to strike him. PO Alonso denied that any officer called § 87(2)(b) a scumbag or cursed. PO Alonso denied that a conversation took place regarding the complaint that § 87(2)(b) filed with the CCRB regarding his arrest on October 17, 2006.

NYPD Police Documents for the October 17, 2006 Incident

LAB Call-Out Log: An IAB Call-Out was conducted in response to an allegation made by § 87(2)(b) that officers did not return \$240.00 to him that was in his possession during his arrest on October 17, 2006. IAB Call-Out log #07-638 indicates that § 87(2)(b) was contacted at the Willard Drug Treatment Center on March 15, 2007 and told that on October 17, 2006, PO Kolanovic did voucher \$226.00 that was in his possession at the time of the arrest. IAB Call-Out log #07-638 was subsequently closed (encl. D 1).

SPRINT: The SPRINT indicates that on October 17, 2006 one person was arrested at 11:59 AM on 72nd Street and 18th Avenue in Brooklyn (encl. D 11).

Command Log: The 62nd Precinct command log on October 17, 2006 notes that § 87(2)(b) was arrested by PO Kolanovic. A note was made at 12:05 PM and indicates that § 87(2)(b)'s physical condition was normal (encl. D 13-17).

Evidence Vouchers: Five decks of heroin were vouchered by PO Kolanovic on October 17, 2006 as arrest evidence (encl. D 28).

BADS: A search of the Booking/Arrest/Disposition/Inquiry System shows that on October 17, 2006, § 87(2)(b) was arrested by PO Kolanovic for tampering with physical evidence, criminal possession of a controlled substance, resisting arrest, and false impersonation at 18th Avenue and 72nd Street in Brooklyn (encl. D 47).

Arrest Disposition: [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

NYPD Police Documents for the April 6, 2007 Incident

IAB Closing Report: An IAB investigation was conducted, IAB log #07-13830, into an allegation made by § 87(2)(b) that officers planted a crack pipe on him in retaliation for filing a CCRB complaint. The IAB Intelligence Report indicates that the allegation was pleaded against PO O'Halloran and was unsubstantiated (encl. D 2-6).

SPRINT: The SPRINT on April 6, 2007 states that one person was arrested at 5:05 PM on 70th Street and 18th Avenue in Brooklyn (encl. D 12).

Command Log: The 62nd Precinct command log on April 6, 2007 notes that § 87(2)(b) was arrested by PO O'Halloran. The arrest was noted at 5:20 PM (encl. D 13-17).

Roll Call: The 62nd Precinct Tour 2 Roll Call on April 6, 2007 confirms that Sgt. Zaleski, PO O'Halloran, and PO Alonso were assigned to Anti-Crime and were in RMP 0713 (encl. D 18-27).

Evidence Vouchers: One crack pipe with crack cocaine residue was vouchered by PO O'Halloran on April 6, 2007 as arrest evidence (encl. D 29-31).

Parole Data: The NYPD Intranet Parole System indicates that § 87(2)(b) is on parole until § 87(2)(b). It also indicates that § 87(2)(b) is known to abuse drugs and is a violent felon (encl. D 32-35).

BADS: A search of BADS indicates that § 87(2)(b) was arrested by PO O'Halloran for criminal possession of a controlled substance at 18th Avenue and 70th Street in Brooklyn on April 6, 2007 (encl. D 37).

Arrest Disposition: [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Police Officer CCRB History

During his 8-year tenure with the NYPD, PO Kolanovic has had no substantiated cases with the CCRB (encl. A 1-2). During his 9-year tenure with the NYPD, Sgt. Zaleski has had no substantiated cases with the CCRB

(encl. A 3). During his 11-year tenure with the NYPD, PO O'Halloran has had no substantiated cases with the CCRB (encl. A 4).

Civilian CCRB History

§ 87(2)(b) has no prior cases with the CCRB (encl. A 5).

Civilian Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Conclusions and Recommendations

Identification of Subject Officers

On October 17, 2006, § 87(2)(b) alleged that after he swallowed the heroin, police officers threw him to the ground and punched him in the ribs. § 87(2)(b) was then handcuffed and brought to his feet. § 87(2)(b) also alleges that after an officer caused him to fall onto the ground, officers kicked him in the ribs. § 87(2)(b) alleges that all of the officers at the location were punching him and kicking him, however, he was not sure if there were three or four police officers present. Based on the police officers' statements, the investigation was able to conclude that Sgt. Zaleski, PO Kolanovic, and PO O'Halloran were the officers present on October 17, 2006. When asked, § 87(2)(b) could not distinguish which officers had punched him, stating that he had crouched into a standing fetal position as the officers began to hit him. § 87(2)(b) alleges that all of the police officers were kicking him. When asked how he knew this, since he was facing the ground, § 87(2)(b) stated that he felt simultaneous kicks on both sides of his body. When asked about this allegation, all of the police officers interviewed deny that § 87(2)(b) was ever punched or kicked. § 87(2)(g)

§ 87(2)(b) alleged that an officer grabbed him by the back of his legs near his ankles while he was handcuffed and pulled his legs backward, forcing him to fall forward and hit his head on the ground. § 87(2)(b) did not see which officer did this because he was facing away from all of the officers. The officers deny that this occurred. § 87(2)(g)

§ 87(2)(b) alleged that the officer who processed his arrest paperwork and first asked him for his identification stated, "I don't give a fuck, you AIDS scumbag." PO Kolanovic was the police officer that processed § 87(2)(b)'s arrest. Additionally, PO Kolanovic admitted in his CCRB interview that he was the officer who asked for § 87(2)(b)'s identification. As a result, Allegation C is pleaded against PO Kolanovic. § 87(2)(b) alleged that Sgt. Zaleski called him a "piece of shit." § 87(2)(b) identified Sgt. Zaleski by name by calling him "Sgt. Klepski." § 87(2)(b) also stated that the sergeant was present during both incidents. § 87(2)(g)

Additionally, on April 6, 2007, § 87(2)(b) alleged that Sgt. Zaleski

called him a scumbag and stated “ain’t shit gonna happen” with his CCRB complaint. § 87(2)(g) § 87(2)(b) also alleged that PO’ O’Halloran threatened him with force and spoke to him discourteously. § 87(2)(g) § 87(2)(g)

Undisputed Facts

On October 17, 2006, it is undisputed that § 87(2)(b) was in possession of heroin and had it in plain view prior to being stopped by the police officers. It is undisputed that § 87(2)(b) attempted to swallow the heroin and resisted arrest by crouching down in a fetal position. It is undisputed that § 87(2)(b) was searched and additional heroin was found.

On April 6, 2007, it is undisputed that § 87(2)(b) was stopped by police officers, arrested, and searched. It is undisputed that a crack pipe was found by PO O’Halloran in the vicinity of § 87(2)(b)

Disputed Facts

§ 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g)

§ 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g)

Allegations Not Pleaded

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§ 87(2)(g)

Assessment of Evidence

§ 87(2)(b) alleged that on October 17, 2006, officers threw him to the ground and punched him in the ribs after he ate a bag of heroin. After § 87(2)(b) was in handcuffs, he was forced to the ground a second time, and officered allegedly kicked him in the ribs. In § 87(2)(b)'s notarized statement to the CCRB, he stated that the officers threw him to the ground, but when § 87(2)(b) was interviewed regarding the incident, he never mentioned that he was thrown to the ground. § 87(2)(b) stated that after he ingested the heroin, he resisted the police officers by turning his body and crouching down in a standing fetal position, at which time the officers punched him. § 87(2)(b) continued to explain that the officers then turned his body around onto the ground and placed him in handcuffs. However, in the same statement, § 87(2)(b) first stated that he was placed in handcuffs while he was on the ground. § 87(2)(b) then changed his version of events, stating that after he was punched by the police officers, the officers allowed him to stand up under his own strength and then the officers placed him handcuffs. After that, an officer pulled his feet out from under him causing him to fall forward onto the ground and the officers then allegedly kicked § 87(2)(b) in the ribs. Sgt. Zaleski, PO Kolanovic, and PO O'Halloran deny that version of events. PO Kolanovic testified that after § 87(2)(b) ate the packet of heroin he grabbed § 87(2)(b) by the chest and shoulder and § 87(2)(b) went to the ground in a fetal position, at which time PO Kolanovic attempted to place him in handcuffs. PO Kolanovic testified that § 87(2)(b) was resisting by turning his body and refusing to be placed in handcuffs. This statement is corroborated by Sgt. Zaleski and PO O'Halloran, who confirm that § 87(2)(b) was non-compliant and that physical force was used to take him to the ground and place him under arrest. Both PO Kolanovic and Sgt. Zaleski testified that § 87(2)(b) was only on the ground at one point during the incident. § 87(2)(b)

§ 87(2)(b) never mentioned that he had any physical injuries until eighteen months after the incident, at which time he states that the fall had caused a bruise to his head. § 87(2)(b) § 87(2)(b)'s arrest photo that was taken on October 17, 2006 does not show any injuries, but does reveal his deteriorated physical condition. § 87(2)(g)

§ 87(2)(b) § 87(2)(b) is on parole and any violation is grounds for his parole to be revoked. During his CCRB interview, § 87(2)(b) was fixated on the fact that he was illegally searched and his heroin was found by the police officers, but he admitted to having the heroin in plain view. § 87(2)(g)

§ 87(2)(b) alleged that an officer grabbed him by the legs near his ankles as he was standing in handcuffs and pulled his feet out from under him, causing him to fall forward onto the ground. The fall forced him to hit his forehead against the ground, causing a visible bruise to his forehead. § 87(2)(g)

§ 87(2)(g)

Additionally, in § 87(2)(b)'s written statement, he mentioned that he banged his forehead, but he did not describe how this had happened and he did not allege that he received any physical injuries until he was interviewed on April 29, 2008. § 87(2)(b) claimed that his arrest photograph would show the physical injury that he sustained. In his arrest photo taken on October 17, 2006, there are no visible physical injuries to § 87(2)(b). Furthermore, the 62nd Precinct command log on October 17, 2006 notes that at 12:05 PM, § 87(2)(b)'s physical condition was normal.

Furthermore, § 87(2)(b) testified that he told the police officers that he had AIDS. PO Kolanovic confirmed this, stating that § 87(2)(b) informed the police officers of his condition when they approached him. § 87(2)(g)

§ 87(2)(b) alleged that after he told PO Kolanovic that he had HIV, PO Kolanovic allegedly stated, "I don't give a fuck, you AIDS scumbag." PO Kolanovic denied making this statement. Sgt. Zaleski stated that PO Kolanovic never made this statement, and PO O'Halloran testified that no discourteous statements were made to § 87(2)(b) throughout the incident. § 87(2)(g)

§ 87(2)(b) alleged that on October 17, 2006 and April 6, 2007, Sgt. Zaleski called him a "scumbag" and a "piece of shit." § 87(2)(b) also alleged that Sgt. Zaleski stated, "ain't shit gonna happen" with complaints filed with the CCRB. Sgt. Zaleski has denied making any of these statements. Sgt. Zaleski denied calling § 87(2)(b) a "piece of shit" and a "scumbag," stating that no officer spoke discourteously toward § 87(2)(b). PO Kolanovic testified that Sgt. Zaleski did not call § 87(2)(b) a "scumbag" or a "piece of shit" on October 17, 2006. This is corroborated by PO O'Halloran's statement. Sgt. Zaleski also denied making any discourteous statements to § 87(2)(b) on April 6, 2007. On April 6, 2007, PO O'Halloran did not hear Sgt. Zaleski tell § 87(2)(b) that "ain't shit gonna happen" with a CCRB complaint or that Sgt. Zaleski called § 87(2)(b) a scumbag. PO Alonso also denied that Sgt. Zaleski called § 87(2)(b) a scumbag. PO Alonso testified that no conversation took place about the complaint that was filed with the CCRB regarding § 87(2)(b)'s arrest on October 17, 2006. It should be noted that PO O'Halloran admitted that he discovered that § 87(2)(b) filed a CCRB complaint at the stationhouse because he found papers in § 87(2)(b)'s pockets with CCRB information and an IAB sergeant's name on them. § 87(2)(g)

§ 87(2)(b) alleged that PO O'Halloran stated, "don't look at me scumbag" as PO O'Halloran was searching him. PO O'Halloran denied making this discourteous statement to § 87(2)(b). Sgt. Zaleski corroborated this by stating that none of the officers spoke discourteously toward § 87(2)(b). PO Alonso also denied that any officer called § 87(2)(b) a scumbag. § 87(2)(g)

§ 87(2)(b) alleged that PO O'Halloran made a punching motion with his hand as if he was going to strike § 87(2)(b). PO O'Halloran denied this allegation and his denial is corroborated by Sgt. Zaleski and PO Alonso. § 87(2)(g)

It should be noted that § 87(2)(b) alleged that PO O'Halloran "planted" a crack pipe on him. § 87(2)(b) contended that the crack pipe could not have been his, stating that if he were to have a relapse it would be with heroin, not crack. § 87(2)(b)

§ 87(2)(b) Sgt. Zaleski, PO Kolanovic, and PO O'Halloran took part in § 87(2)(b)'s arrest in October 17, 2006, which violated his parole and caused him to spend a month in prison and six months in drug rehabilitation. On April 4, 2007, § 87(2)(b) contacted the CCRB and stated that he had been released from § 87(2)(b). Two days later, he was arrested by PO O'Halloran. PO O'Halloran's arrest of § 87(2)(b) violated his parole and § 87(2)(b) has been incarcerated at the Riker's Island Correctional Facility since his arrest on April 6, 2007. § 87(2)(b) will remain incarcerated until the parole board reviews his case. § 87(2)(g)

Allegation A: October 17, 2006, officers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that officers used physical force against him. § 87(2)(g)

§ 87(2)(b). The officers restrained § 87(2)(b) by holding him on the ground while PO Kolanovic placed him in handcuffs. § 87(2)(g)

§ 87(2)(b) the decision of the Assistant Deputy Commission of Trials, Michael D. Sarner, in *PD v. McNichol* (encl. 1-5), which states that minimal force used to effect an arrest is not misconduct. § 87(2)(g)

Allegation B: On October 17, 2006, an officer used physical force against § 87(2)(b)

§ 87(2)(b) alleged that an officer grabbed him by the back of his legs near his ankles and pulled his feet out from under him, causing him to fall forward and strike his head on the ground. § 87(2)(g)

§ 87(2)(b) alleged that the force resulted in a bruise on his head, which he stated was visible when his arrest photograph was taken. The arrest photograph showed no such injury. § 87(2)(g)

Allegation C: On October 17, 2006, PO Frank Kolanovic spoke obscenely to § 87(2)(b)

Allegation D: On October 17, 2006 and April 6, 2007, Sgt. Christopher Zaleski spoke obscenely to § 87(2)(b)

Allegation E: On April 6, 2007, PO Michael O'Halloran spoke obscenely to § 87(2)(b)

Allegation F: On April 6, 2007, PO Michael O'Halloran threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that after he told the police officers on October 17, 2006 that he had AIDS, PO Kolanovic stated, "I don't give a fuck, you AIDS scumbag." § 87(2)(b) alleged that Sgt. Zaleski called him a "piece of shit" and a "scumbag" on October 17, 2006. § 87(2)(b) also alleged that Sgt. Zaleski called him a "scumbag" on April 6, 2007 and told him, "ain't shit gonna happen" with complaint filed with

the CCRB. § 87(2)(b) alleged that as PO O'Halloran was searching him on April 6, 2007, PO O'Halloran stated, "don't look at me scumbag." § 87(2)(b) alleged that on April 6, 2007, PO O'Halloran made a motion with his hand as if he was going to strike § 87(2)(b) as a threat to use physical force. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Inv. Eric Black

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: